3198.

SUPREME COURT OF THE UNITED STATES.

No. 99.

THE UNITED STATES, APPT'S,

v.

THOMAS O. LARKIN & JOHN S. MISSROON.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of California.

Be it remembered, that on this twenty-fourth day of March, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Thomas O. Larkin, for the place named "Jimeno Rancho," was presented, and ordered to be filed and docketed with No. 131, and is as follows, to wit: Vide pages 4 of this transcript.

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

Friday, June 25th, 1852.

The following case was set in its order for hearing, and ordered to be placed on the trial docket, to wit: No. 131. Thomas O. Larkin. "Jimeno Rancho."

Friday, August 14th, 1852.

In case No. 131, Thomas O. Larkin et al. for the "Jimeno Rancho," on motion of the Counsel for the claimant, the following order was granted, to wit: (vide pages of this transcript.)

Tuesday, January 4th, 1853.

In case No. 131, Thomas O. Larkin, for the place named "Jimeno Rancho," the deposition of John Bidwell, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed, and is in the words and figures as follows, to wit: (vide pages of this transcript 6.)

Thursday, January 6th, 1853.

In case No. 131, Thomas O. Larkin, for the place named "Jimeno Rancho," the deposition of Wm. D. M. Howard, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with documents marked G. and H. annexed thereto, was filed, and is in the words and figures as follows, to wit: (vide pages of this transcript 7, 10, 11.)

In the same case, the deposition of Moses Schailenberger, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed, and is in the words and figures as follows, to wit: (vide pages of this transcript 9.)

Saturday, January 8th, 1853.

Case No. 131, Thomas O. Larkin et al. for the place named "Jimeno Rancho," called Gen'l James Wilson, Counsel for the

claimants; read the papers in evidence; answered by the U. S. Associate Law Agent, and the case submitted. Taken under advisement by the Board.

Monday, January 10th, 1853.

In case No. 131, Thomas O. Larkin, for the place named "Jimeno Rancho," Commissioner Hiland Hall delivered the opinion of this Board, and the decree of final confirmation.

Ordered, that the opinion and the decree of final confirmation of this Board, delivered this day, in this case, be recorded on the Journal.

Which opinion and decree are in the words and figures as follows, to wit: (vide pages of this transcript 23.)

To the Board of Commissioners for ascertaining and settling Private Land Claims in the State of California.

Petition.

Your petitioners, Thomas O. Larkin, of the City and County of San Francisco, in the State of California, and John S. Missroon, a citizen of the United States, and formerly of the State of South Carolina, respectfully represent to your Honorable Board, that they claim a certain tract of land on the westerly side of the Sacramento River, called the "Jimeno Ranch," being a league in breadth from the river towards the west, and of the length running along the banks of the said Sacramento River from a northerly to a southerly direction of eleven leagues; containing eleven leagues, more or less, situated in the County of Colusi, in the State of California; that they claim the same in fee, by virtue of a grant made to Manuel Jimeno, under the authority of the Mexican Government, by Manuel Micheltorena, Governor, Commandant-General, and Inspector of the Department of the Californias, bearing date the fourth (4th) day of November, one thousand eight hundred and forty-four (1844), and approved by the Territorial Deputation.

Your petitioners further represent, that the said grantee, on the thirtieth (30th) day of August, one thousand eight hundred and forty-seven (1847), transferred all his right, title, and interest in said land to the above-named Thomas O. Larkin and John S. Missroon.

Your petitioners would further represent, that the boundaries of the said tract of land have been designated and defined, and that the grantee and those claiming under him have been in the peaceable possession thereof ever since, and that they have no knowledge of any interfering claim.

Your petitioners present herewith a copy of the original grant of said land in the Spanish language, together with a translation of the same, and will make further proof of title, if required by the Board.

Your petitioners pray your Honorable Board, to take into con-

sideration their claim to said tract of land, and decree their title to be valid, and confirm the same.

And your petitioners will ever pray.

THOMAS O. LARKIN,
JOHN S. MISSROON,
By their Attorney and Counsel,
A. C. WHITCOMB.

Filed in office, March 24th, 1852.

GEO. FISHER,
Sec.

SAN FRANCISCO, January 4th, 1853.

On this day, before Com'r Harry I. Thornton, came John Bidwell, a witness in behalf of the claimant, Thomas O. Larkin, petition No. 129, and was duly sworn, his evidence being given in English.

The U. S. Associate Law Agent was present.

Deposition of John Bidwell.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence, and how long have you resided here, and what has been your experience in surveying and drafting maps?

Answer. My name is John Bidwell, my age is thirty-three, and my residence is Chico, Butte County. I have resided in California more than eleven years, in Sacramento Valley, and I have been engaged much of my time in surveying and making maps.

Question 2d. Do you know the Ranchos called the Jimeno Rancho, the Rancho of Larkin's Children, on the Sacramento River, and the Rancho called the Flugge Rancho, on the west side of Feather River?

Answer. I am acquainted with these Ranchos, and have known them ever since the year 1843. I mean the land which they occupy.

Question 3d. When were those Ranchos occupied, how, and by whom?

Answer. In the spring of 1847 I visited the Rancho of Larkin's Children; it was then occupied by a man by the name of John Williams, and had been so occupied for some time previous; there was a dwelling-house, in which resided several families, and there was stock about the place at that time, and it has been occupied ever since, down to the present time. I was employed in 1847 by Mr. Larkin, to build for him a house on the Flugge Rancho, which I did in the spring of 1848, not being able to do so sooner. A man by the name of Yates was put in the house, and occupied the place from 1849 until some short time since, under Mr. Larkin. The house which I built was burned down, and Yates built another. As to the Jimeno Ranch, I saw a house upon it which was occupied in 1848. I know that the house so occupied had been built before that time.

(Signed) J. BIDWELL.

U. S. Law Agent present.

Sworn and subscribed before me, this 4th of January, 1853.

HARRY J. THORNTON,
Com., &c.

January 4th, 1853.

Before Judge Thornton.

It is hereby agreed by counsel that the deposition of John Bidwell, taken this day before his Honor, H. J. Thornton, may be used in each of the following three cases, viz.: No. 129, No. 130, and 131, being three cases pending.

(Signed) ROBERT GREENHOW,
Ass't Law Agent of U. S.

(Signed) JAMES WILSON,
for Petitioners.

San Francisco, January 4th, 1853.

I certify that the aforegoing is a true and correct copy of the original depositions taken in case No. 129, and on file in this office.

GEO. FISHER,
Sec'y.

Filed in office, January 4th, 1853.

GEO. FISHER,
Sec'y.

San Francisco, January 6th, 1853.

Deposition of W. D. M. Howard.

On this day, before Com'r Harry J. Thornton, came Wm. D. M. Howard, a witness in behalf of the claimants, Thomas O. Larkin, et. al., petition No. 131, and was duly sworn, his evidence being given in English.

The U. S. Associate Law Agent was present.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence?

Answer. My name is William D. M. Howard, my age is thirty-three, and my residence is San Francisco, California.

Question 2d. Are you acquainted with the handwriting of Manuel Micheltorena, and Francisco Arce? If yea, look upon document filed with the petition filed in this case, as an Exhibit, and marked H thereto, and say whether the signatures of said Micheltorena and Arce, where they are written on said document, are their genuine signatures?

Answer. I am acquainted with the handwriting of Micheltorena, and of Arce, having seen them write. I have examined their signatures as written on the document above referred to, and state that their signatures are genuine.

Question 3d. Are you acquainted with the handwriting of Manuel Jimeno and Talbot H. Greene, Will. Edward Hartnell and A. J. McDuffe, and William R. Garner? If yea, look at the document

filed as an Exhibit, and marked G, with the petition to the Board in this case, and say whether the signatures of those persons, wherever they occur in and upon the said Exhibit, are their genuine signatures?

Answer. I am acquainted with the handwriting of the persons named in the above interrogatory. I have examined their signatures where they occur in and upon the said document referred to in the interrogatory, and state that their signatures thereon are the genuine signatures of the said persons.

WM. D. M. HOWARD.

U. S. Agent present.

Sworn to and subscribed before me, this 6th of January, 1853.

HARRY J. THORNTON,
Com., &c.

Filed in office, January 6th, 1853.

GEO. FISHER,
Sec'y.

SAN FRANCISCO, Jan'y 6th, 1853.

On this day, before Com'r Harry J. Thornton, came Moses Shallenberger, a witness in behalf of the claimants, Thomas O. Larkin, et al., petition No. 131, and was duly sworn, his evidence being given in English.

The U. S. Associate Law Agent was present.

Deposition of Moses Shallenberger.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence, and how long have you resided there?

Ans. My name is Moses Shallenberger, my age is twenty-six years, and my residence is San José, California, and I have resided in this State ever since the spring of 1845.

Question 2d. Are you acquainted with the land in this case claimed, and if you are, state anything you may know with regard to its occupation and settlement.

Answer. I was, during the years 1846 and 1847, a clerk in the store of the claimant Larkin. Whilst I was so engaged in business for Larkin in the year 1847, a man named Dolores Felix, who was in the employment of Mr. Larkin, would come to Monterey from the Sacramento, and carry back with him, for Mr. Larkin, horses and provisions, which I understood he would take up to the Rancho of Mr. Larkin in the Sacramento Valley; this I understood from Felix and Larkin; the Ranch to which I refer was called the Jimeno Ranch; I understood from Larkin and Felix, that there was a contract between them that Felix was to occupy and take care of the said Rancho for Larkin; at the time that Felix went on the Ranch, I understood that his occupation was under the contract.

Cross questions by the U. S. Law Agent.

Question 1st. Where is Felix, and how long did he live on the Rancho.

Answer. I do not know where he is; the last that I knew of his being there was in 1848.

MOSES SHALLENBERGER.

U. S. Law Agent present.

Sworn to and subscribed before me, this 6th of January, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office, Jan. 6th, 1853.

GEO. FISHER,
Sec'y.

Sello Primero. Ocho Pesos.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ocho cientos cuarenta y cuatro y mil ocho cientos cuarenta y cinco.

MICHELTORENA,
Pablo de la Guerra.

[Aduana Maritima de Mont'y. Place of the Eagle.] El C. Manuel Micheltorena, General de Brigada, del ejercito Mejicano Agudante General de la Plana mayor del mismo, Gobernador Comandante General e Inspector del Departamento de Californias.

H. Original Grant to Jimeno.

[Gobierno del Departamento de los Californias. Place of the Eagle.] Por cuanto D. Manuel Jimeno ha pretendido para su beneficio personal el sitio que se halla desocupado entre el Rancho que se le ha concedulo a los hijos de D. Tomas O. Larkin el rio del Sacramento y los tierras valdias que estan por la parte del Sur todo conforme se demuestra en el diseno respectivo practicados previamente las diligencias y averiguaciones concernientes segun lo dispuerto por leges y reglamentos de la materia usando de los facultades que me son conferidos a nombre de la Nacion Mejicana he venido en concederle el terreno mencionado sujetandore a los condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travesias caminos y servidumbres lo disfrutora libre y esclusivamente destinandolo al uso ó cultive que mas le acomode.

2a. Solicitara del Juez respectivo que le de la posesion Juridica en virtud de este Despacho por el cual se demarcaran los linderos en enyos limites pondrà a mas de sus mohoueras algunos arboles frutales ó silvestres de alguna utilidad.

3a. Li contraviniese a estas condiciones perdera su derecho al terreno.

En consecuencia mundo que teniendose por firme y valedero el presente titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey a cuatro de Noviembre de mil ocho Cientos Cuarenta y Cuatro.

MANUEL MICHELT'A.
FRANCO ARCE,
Official 1o.

Queda tomacle cazon, de este Dupacho en el libro respectivo a fogos.
FRANCO ARCE.

Received for record at 10 o'clock on the 27th Sept., A. D., 1851. Recorded Sept. 27th, A. D. 1851, folio 56 & 57, Book A, U. P. Monroe, by Jo. J. Hughes, Deputy Clerk, Colusi County, California.

JOHN J. HUGHES.

MICHELTORENA to JIMENO—Grant.

Filed in office, Jan'y 5th, 1853.

GEO. FISHER,
Sec'y.

Annexed to the deposition of Wm. D. M. Howard, of Jan'y 6th, 1852.

GEO. FISHER,
Sec'y.

G. Deed of Conveyance.

En el puerto de Monterey de la Alta California á los treinta dias del mes de Agosto de mil ochocientos cua renta y siete, ante mi Walter Colton, Juez de paz de esta demarcacion y ante los testigos que subscriben camparecio Don Manuel Jimeno y digo: Que por si, y a nombre de ne esposa Dona Maria de los Augustias de la Guerra de Jimeno y demas herederos y sucesores y de quien hubiere voz y fama en sualguiere manera vende y da en venta publica y enagenacion perpetua por Juro De heredaal y para siempre jamas a Don, Tomas O. Larkin de esta veundad y a Don. Juan S. Missroon vuino de la Carolina del Sud, de los Estados Unitos, un terreno que le pertenere en proprieed ad por concession que à el le higo el Exmo. Señor Gobernador y Comandante Genl. de este Departmento, Don Manuel Micheltorena con fecha cuatro de Noviembre de mil Ocho Cientos Cuarenta y Cuatro. Dho terreno esta en la orilla del Rio del Sacramento, entre el rancho que se les ha concedido a los hijos del mencionado Don Tomas O. Larkin tomando una legua de ancho rumbo al occidente y siguiendo por toda la orilla del mismo Rio del Sacramento, hasta medir once leguas por las tierras valdias que estan por el rumbo del Sur al lado de Sonoma todo conforme al diesño que se demuestra en el espediente de la materia, y en el decreto superior de dos de Noviembre de mil Ocho Cientos cuarenta y Cuatro

el cual existe en la Secretaria de Gobierno. Declara el ven dedor no tenerlo enajenado ni empenado, y que esta libre de todo gravamen publico y como tal se les vende a los compradores en el precio de un mil concuenta pesos (1050 ps.) que tiene recibido a su entera satisfaccion: Que desde ahora se Desprende y aporta del Dominio propriedad y otro cualguiera derecho que le ousta al referido terreno, renunciando y traspasundo lo á los compradores, para que dispon gan de el como cosa propia: obligandose et otorgan te a que esta venta les sea cierta segura y efestiva y que no se les inquietorá ni movera pleyto alguno y que en todo caso, si resultare algun reclamo ocasionado por el vendedor queda este obligado a resarcir al comprador todos los dunos y perjuicios que se les ocasionen.

A sugo efecto pasa con esta fecha á los compradores copia certificada del titulo, del Diseno y Demas contenido del espediente original que existe en el Archivo del Soberino que está a cargo del que certifica, Don Guillermo Eduardo Hartnell, pues el titulo original padecio estravio en los trastornos politicos que ha sufrido este pais, pero si por fortuna pareciere, se les entregará á los compradores como cosa suya; y a la observanica de todo lo dicho se obliga con todos rus bienes presentes y futuros, y con ellos se somete al fuero y Jurisdicion de los Sinores Jueres que de nes causas deben conveer, para que a su cum plimiento le compelon y apreimen, como por sentencia definitiva consentida y pasada en autoridad de cosa juzzaela que por tal la reputa, renunciando los leges que en el caso le favorezcon. Y para que consta lo firmo con migo y los testigos que subscriben en duplicado.

MANUEL JIMENO,

(Testigos) TALBOT H. GREEN,

GUILLERMO EDO. HORTNELL,

A. JACKSON McDUFFIE.

En dicho dia mes y año comparecio igualmente ante nis y los mencionados testigos Dona Maria de las Augustias de la Guerra de Jimeno y digo; que a nombre myo y de sus necesores y herederos y de quien de ellos hubiere titulo voz y fama en cual quiera manera da por bien vendido el poraje antes mencionado y que renuncia espontanamente todo derecho que a el pudiera tener ella y sus he rederos.

(Testigos) AUGUSTIAS GUERRA de JIMENO,

TALBOT H. GREEN,

GUILLO. ED. HARTNELL.

(Testigo) A. JACKSON McDUFFIE.

The foregoing document was signed and delivered in my office, and in my presence, and a record of the same is deposited in the archives of this court, this thirtieth day of August, in the year of our Lord one thousand eight hundred and forty-seven.

WILLIAM R. GURNER,
Secretary.

WALTER COLTON,
Alcalde of Monterey.

Recorded in the Book (B) of Records of the Municipality of Montery, page 13.

WM. S. JOHNSON.
Acting Recorder's Clerk.

March 2d, 1850.

Received for record at 10 o'clock, on the 27th Sept., A. D. 1851. Recorded Sept. 25th, A. D. 1851, fol. 59, 60 and 61.

WM. F. MONROE.

Recorded, Colusi Co., by

JO. J. HUGHES.
Dep'y.

Recorded in the Book of Records of the Municipality of Monterey, pages 129 to 132.

WM. S. JOHNSON,
January 18th, 1850. Acting Recorder's Clerk.

In new Book of Records, page 13, No. 18.

HUGO REID.

Filed in Office, Jan'y 5th, 1853.

GEO. FISHER,
Sec'ty.

Annexed to the deposition of Mr. D. M. Howard, of January 6th, 1852.

GEORGE FISHER,
Sec'y.

Sello Cuarto. Dos Reales.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey, en el Departamento de los Californias, para los Años de Mil Ocho Cientos Cuarenta y Cuatro y Mil Ocho Cientos Cuarenta y Cinco.

MICHELTORENA,
Pablo de la Guerra.

[L. S.] MONTEREY, No. 1st, de 1844.

No pudiendo informor el S. interesado pr serlo ya a la vez Srio del Despocto traigon a la vista todo lo que convie niere tenerse presente pro proveer.

MICHELT'A.

E. S. Gobernador.

C. Manuel Jimeno vecino de este Departamento ante V. E. con el debido respecto trago presente: Que conveniendo a mis intereses establecer nu rancho pr el rio del Sacramento segun el diseno que

acompano suplico a V. E. se sirve conce derme lo por estor completamente valdio y sin que lo Haya pedido persona alguna el terreno segun manifiesta el Mapa General que se ha prenado en este oño por el agiemensor Bidwell de cuya Gracia recibive merced de V. E.

MANUEL JIMENO.

MONTEREY, Noviembre 1o, de 1844.

MONTEREY, 2 de Noviembre, 1844.

Vista la peticion sou que da principio este Espediente, el estado inculto en que se encuentra el terreno solicitado segun la mapa general que se ha formado del Rio Sacramento con to demos que se timo presente y ver conveno de conformidad con los leges y reglamentos de la materia declaro a Don Manuel Jimeno dueno de once sitios de Govado mayor entre el Rio del Sacramento el rancho que hon solicitado los hijos del S'or Larkin y los tierras valdias por la porte del Sur segun manifiesta al diseno respectivo librese el correspondiente despacho tomese ragon en el Libro respectivo y entreguese al interesado pora su resguardo y dunas fines.

No. 131. D. "*Espediente.*"

Espediente promoaulo pr. D. Manuel Jimeno en pretencion de un tereno en el Rio Sacramento.

(413.)

Monterey, fha la muima.

MICHELT'A.

El C. Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Agudante General de la Plana mayor del mismo Gobernador Comandante General i Inspector del Departamento de Californias.

Por Cuanto D. Manuel Jimeno ha pre tendido para su beneficio personal el sitio qua se halla desocupado entre el Rancho que se le ha concedulo a los hijos de Dn Tomas O. Larkin el rio del Sacramento, y los tierras valdias queuloa por la poore del Sur, todo conforme se demuestra en el diseno respectivo, prasticadas previamente los Diligencias y averiguaciones concernientes segun lo dispuesto por leges y reglamentos de la materia usando de los facultades que me son conferidas a nombre de la Nacion Mejicana he venido en concederle el terreno mencionado sujetandose a los condiciones siguientes.

1a. Podra cercarlo sin perjudicar los travesias cassoinos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso o cultuio que mas le acomode.

2a. Solicitara del Juez respectivo que le de posesion juridica en vestud de este Despacho por el cual se demarcaron los linderos en cuyos limites pondra a mas de rus mohoneras, algunos arboles frutales o silvestres de alguna utilidad.

3a. Si contraviniere a estas condiciones perdera su derecho al terreno.

En consequencia mundo que teniendore por firme y validero el presente titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguondo y demas fines.

Dado un Monterey a cuatro de Noviembre de mil Ochocientos Cuarenta y Cuatro.

MANUEL MICHELTORENA.

MANUEL JIMENO, Srio.

Queda tomado razon de este Despacho su el libre respectivo a fojos.

[For Map, see original, page 15.]

Exma Junta Departamental.

Manuel Jimeno ante V. E. con todo el respeto devido hago presente: Que por el titulo adjunto se acredula haberse concedido a mi favor un terreno cutos morgenes del rio del Sacramento y como a V. E. corresponde dor su aprobacion, suplico se digne otorgarmelo de lo que recibira gracia y merced Juro lo necesario y serviendo dispeacorme el papel somun por no haber del Correspondiente.

MAN'L JIMENO.

MONTEREY, Abril 21, de 1846.

ANGELES, Junio 8, de 1846.

Dado cuenta en Jesion de hoy a la E. A. Departamental con esta instancia se maude pasor en union del espediente respectivo a la comision de terrenos valdios.

AGUSTIN OLVERA.

Office of the Surveyor-General of the United States, for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such, now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican Territory, or Department of Upper California, do hereby certify, that the seven preceding and hereunto annexed pages of tracing paper, counting from one to seven inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal (not having a seal of office), at the City of San Francisco, Cal., this 8th day of May, 1852.

SAM'L D. KING,
Surveyor-General Cal.

Filed in office, Jan'y 5th, 1853.

GEO. FISHER,
Sec'y.

Seal the First. Eight Dollars.

Provisionally authorized by the Maritime Custom House of the Port of Monterey, Department of the Californias, for the years one thousand eight hundred and forty-four, and one thousand eight hundred and forty-five. MICHELTORENA,

Pablo de la Guerra.

Translation of the Original Grant H.

[L. S.] [Maritime Custom House, Monterey.] The Citizen Manuel Micheltorena, General of Brigade of the Mexican Army, Adjutant General of the Staff of the same, Governor, Commandant General, and Inspector of the Department of Californias.

[L. S.] [Govern't of the Department of the Californias.] Whereas Don Manuel Jimeno has petitioned for his personal benefit, for the tract of land which is unoccupied between the Ranch which has been granted to the children of Don Tomas O. Larkin, the River Sacramento, and the uncultivated lands which are on the side of the south, entirely in conformity with the showing in the corresponding plan. The necessary preliminaries and investigations having been gone through with, as directed by the laws and regulations on the subject; exercising the authority in me vested, in the name of the Mexican Nation, I have just granted to him the said land, subject to the following conditions:

1st. He may enclose it without prejudice to the cross-ways, roads, and right of way; he shall enjoy it freely and exclusively, destining it to the use and cultivation which best suits him.

2d. He shall solicit the proper judge to give him juridical possession of it, in virtue of this grant, for the which boundaries thereof shall be marked out, within the limits of which, besides the usual land marks, he shall plant some fruit-bearing, or some forest trees of some utility.

3d. If he shall contravene these conditions he will lose his right to the land.

Wherefore, I order this title, being of itself duly firm and valid. Record thereof shall be taken in the proper book, and that it be delivered to the party interested for his security, and for other purposes.

Given in Monterey, this fourth day of November, one thousand eight hundred and forty-four.

(Sg'd) MAN'L MICHELT'A.
(Sg'd) FRANC'O ARCE,
First Official.

The record of this Grant has been taken in the proper book, at folio

FRANC'O ARCE.

Filed in office, March 24th, 1852.

GEO. FISHER,
Secretary.

Translation of (G) Deed of Conveyence.

At the Port of Monterey, in Upper California, on the thirtieth day of the month of August, one thousand eight hundred and forty-seven, before me, Walter Colton, a Justice of the Peace, in this Demarcation, and before the undersigned witness, appeared Don Manuel Jimeno, and said: that for himself, and in the name of his wife, Doña Maria de los Augustios de la Guerra de Jimeno, and of all other heirs and successors, and of whom he may have voice or right, in any manner whatever, he sells and gives in public sale and perpetual alienation, by hereditary right, and for ever and ever, to Don Tomas O. Larkin, of this port, and Don Juan S. Missroon, of South Carolina, of the United States, a tract of land, which belongs to him in ownership by a concession which Don Manuel Micheltorena, most Excellent Governor and Commandant General of this Department, made to him under date of the fourth of November, one thousand eight hundred and forty-four. Said land is situated on the margin of the Sacramento River, between the Rancho which has been granted to the children of the said Tomas O. Larkin, embracing a league in width, in a westerly direction, and following along the bank of said Sacramento River to the completion of eleven leagues by the vacant lands which are in a southerly direction, on the side towards Sonoma, the whole in conformity with the plat which is shown in the Espediente relative to the matter, and in the superior decree of the second of November, one thousand eight hundred and forty-four, which exists in the Office of the Secretary of the Government. The vendor declares to have neither transferred nor mortgaged it, and that it is free from all public incumbrance, and as such, he sells it to the vendors for the sum of one thousand and fifty dollars, $1050, which he has received to his entire satisfaction. That from the present time he alienates and separates himself from the dominion, ownership, and whatever other right he may have to said tract of land, relinquishing and transferring it to the venders, to the effect that they may dispose of it as their own property, the vendor binding himself that this sale shall be secure and effective to them, and that he will neither disturb, nor bring suit of any kind against them, and that in any case, if there should result any such reclamation, occasioned by the vendor, he binds himself to indemnify the vendees for all the damages and injuries they may suffer thereby—to which effect he delivered to the vendees a certified copy of the title, the plat, and other contents of the original Expediente, which exists in the Government Archives, which are in the custody of him who certifies Don Guillermo Eduardo Hartnell, because the original title was mislaid during the political overthrow which this country

had suffered; but if, by chance, it should appear, it shall be delivered to the vendees as theirs; and for the fulfilment of all herein stated, he binds himself with all his present and future property, and with them he submits himself to the forum and jurisdiction of the Senores Judges, who of his cause ought to take cognizance, in order to the fulfilment thereof, they may compel and coerce him, as if by a final judgment, rendered by authority in *res judicata*, consented to because he considered it as such, renouncing the laws which in the case are favorable to him. In testimony whereof, he signed it, in duplicate with me and the undersigned witnesses.

(Signed) MANUEL JIMENO.

(Signed) TALBOT H. GREEN,
" GUILLERMO EDUARDO HARTNELL, } Witnesses.
" A. JACKSON MCDUFFEE,

On the same day, month, and year, before me, and the mentioned witnesses, appeared, Dona Maria de las Augustios de la Guerra de Jimeno, and said, that in her own name, and that of her successors and heirs, and of whom she may have title, voice, or right, in any manner whatever, she acknowledged the afore-mentioned place rightfully sold, and that she relinquished voluntarily all the right that she and her heirs might have thereto.

(Signed) AUGUSTIOS GUERRA DE JIMENO.

Witnesses: (Signed) TALBOT H. GREEN,
" GUILLERMO EDUARDO HARTNELL,
" A. JACKSON MCDUFFEE.

I, George Fisher, Secretary of the United States Land-Commission to ascertain and settle the Private Land Claims in the State of California, hereby certify, the foregoing is a true, faithful, and correct translation of a Spanish document in case No. 131, wherein Thomas O'Larkin et al. claim the Jimeno Rancho, now on file in this office.

In testimony whereof, I have hereunto signed my name; Office of the Secretary of the above-named commission, San Francisco, this 5th day of January, A. D. 1853.

GEO. FISHER,
Sec'y.

Filed in office, January 5th, 1853.

GEO. FISHER,
Sec'y.

Record of proceedings at the instance of Don Manuel Jimeno, soliciting a tract of land by ("en") the River Sacramento.

(No. 413.)

E. Translation of D. Espendiente.

MONTEREY, November 1st, 1844.

The party concerned not being able to report, on account of his being at a time concerned, party and secretary of government, I order that, whatever it may be convenient to have in mind, for the purpose of coming to a determination, be brought to my knowledge.

(Signed) MICHELTORENA.

Excellent Sir Governor:

I, Manuel Jimeno Casarin, a resident of this department, represent before Y. E., with due respect, that, inasmuch as it suits my interests to establish a rancho about (port) the Sacramento River, according to the accompanying sketch, I entreat Y. E. to be pleased to grant to me, since it lies completely unoccupied, and nobody has petitioned for it, the land, as it is made apparent by the general map, formed this year by the Land-Surveyor Bidwell. By which grace I will receive mercy from Y. E.

(Signed) MANUEL JIMENO.

MONTEREY, November the 1st, 1844.

MONTEREY, November the 2d, 1844.

After having seen the petition at the head of this record of proceedings, the uncultivated state, in which the land petitioned for lies, according to the general map which has been formed of the Sacramento River, and whatever else it was found convenient to attend to, in conformity with the laws and regulations on the subject, I declare Don Manuel Jimeno the owner of eleven square leagues ("Sitios de Ganado Mayor"), between Sacramento River, the ranch which the children of Senor Larkin have applied for, and the vacant lands lying south, as the respective sketch shows. Let the corresponding patent be issued; let it be entered in the respective book, and let it be delivered to the party concerned for his security, and other ends.

(Signed) MICHELTORENA.

MONTEREY. Same date.

The undersigned, Manuel Micheltorena, General of Brigade in the Mexican Army, Adjutant-General in the Staff of the same, Governor Command't-General and Inspector of the Departments of Californias.

Whereas Don Manuel Jimeno has solicited for his personal benefit the site lying unoccupied between the Rancho that has been granted

to the children of Don Thomas O'Larkin, the Sacramento River and the vacant lands lying south, as it is all shown in the respective sketch, the investigations thereunto concerning having been previously accomplished according to the directions of the laws and regulations on the subject, by virtue of the authority in me vested, in the name of the Mexican nation, I have found expedient to grant to him the tract of land mentioned, subject to the following conditions:

1st. He may fence it, without obstructing ("perjudicar") the paths across, roads, and servitudes; he shall enjoy it freely and exclusively. Destining it to what use or cultivation may best suit him.

2d. He shall solicit the respective Judge to give to him the judicial possession, by virtue of this patent, whereby the boundaries shall be marked out; on the limits of which he shall put besides its landmarks some trees, either fruit-bearing or forest trees of some utility.

3d. If he should contravene these conditions, he shall lose his right to the land.

Consequently I order, that the present title being held as firm and valid, the same be entered in the respective book, and be delivered to the interested party for his security and other ends.

Given, in Monterey, on the fourth day of November, one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.
MANUEL JIMENO,
Secretary.

This patent has been entered in the respective Book, folio

To the Excellent Departamental Assembly:

I, Manuel Jimeno, represent before Y. E., with all due respect, that by the adjoined title is proved the grant, made in my favor, of a tract of land on the margins of the Sacramento ("corresponde") River, and, inasmuch as it pertains (correspond) to Y. E., to give Y. E. approval.

I beg Y. E. to deign to grant it to me, whereby I will receive grace and mercy. I swear so; and Y. E. will be pleased to excuse my usage of common paper, there being none of the corresponding paper.

(Signed) MANUEL JIMENO.

MONTEREY, April the 21st, 1846.

ANGELES, June the 3d, 1846.

Account having been given in to-day's Session to the Excellent Departamental Assembly, with this instancy, it was ordered to be referred, together with the respective record of proceedings, to the Committee on Vacant Lands.

(Signed) AUGUSTIN OLVERA.

Filed, in Office, Jan'y 5th, 1853.

GEO. FISHER,
Sec'y.

Opinion delivered by Commissioner Hiland Hill.

No. 131. Thomas O. Larkin and John S. Misroon, claimants.

The claimant asks for the confirmation to them of eleven square leagues of land, situated on the Sacramento River, in the County of Colusi, for which they show a grant from Governor Micheltorena to Manuel Jimeno, dated November 4th, 1844, and a conveyance from the said Jimeno to themselves, dated August 30, 1847. The grant is fully proved, and we find no cause to doubt its genuineness. The grant appears to have been presented to the Departmental Assembly and referred to the Committee on Vacant Lands, June 3d, 1846, but no further action on it is shown by the public archives, or in any other manner. There is no evidence that judicial possession of the land was given, but it appears that actual possession was taken by the claimant, in the year 1847, a house built upon the land, and inhabited, and that the land has been occupied by the claimants ever since. The land is not within ten leagues of the sea-coast; but, in every other respect, the claim is nearly identical with that of Cruz Cervantes, and in conformity to the principle determined by the Board; in that case, we think the claim should be confirmed. Commissioner Thornton concurring in the result, we accordingly enter a decree of final confirmation as follows:

Decree of Final Confirmation.

This Board, on full consideration, having come to the conclusion that the said claim is valid, now proceed to make, and does make the following decree of final confirmation, viz.: It is decreed that the said claim be confirmed, to the extent and quantity of eleven square leagues, being the same land described in the grant, and of which the possession was proved to have been long enjoyed; provided that the said quantity be contained within the boundaries called for in said grant and map to which the grant refers; and if there be less than the said above-named quantity within said bounds, then we confirm to the claimant that less quantity.

(Signed) HILAND HALL,
(") HARRY J. THORNTON,
Commissioners.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle Private Land Claims in the State of California.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing pages, from 1 to both

inclusive, to contain a true, correct, and full transcript of the record of proceedings, and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 131 on the docket of the said Board, wherein Thomas O. Larkin et al. are the claimants against the United States for the place known by the name of "Jimeno Rancho."

[SEAL.] In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this thirteenth day of April, A. D. 1854, and of the Independence of the United States of America, the seventy-eighth.

(Signed) GEO. FISHER,
Sec'y.

Notice of Appeal.

THOMAS O. LARKIN, Claimant,
v.
THE UNITED STATES. } 131.

ATTORNEY-GENERAL'S OFFICE, 10th August, 1854.

You will please take notice, that an appeal in the above case (a transcript of the proceedings in which was received at this office on the 27th of April, 1854), from the decision of the Commissioners to ascertain and settle the Private Land Claims in the State of California, to the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

C. CUSHING,
Attorney-General, U. S.

Filed Sept. 20, 1854.

JNO. A. MUNROE,
Cl'k.

Notice for hearing Deposition of Samuel Chase and others.

UNITED STATES
v.
THOMAS O. LARKIN, and
J. J. MISROON.

In the District Court of the U. S. for the Northern District of California.

The appellees in this case are notified, that, on the 11th day of April, 1855, at 10 o'clock A. M., at the Clerk's Office of the above-named Court, in the City of San Francisco, California, the deposi-

tion of Samuel Chase and others will be taken, to be read as evidence on the part of the appellant, in the trial of the above case.

A. RUSSELL,
Acting U. S. Dist. Att'y.

San Francisco, Cal., Ap'l 10th, 1855.

Filed April 11th, '55.

JOHN A. MUNROE,
Clerk.

Deposition of Samuel Chase.

United States District Court, Northern District of California.

United States
v.
Thomas O. Larkin.

San Francisco, April 11th, 1855.

On this day, before Jno. A. Munroe, a Commissioner of the United States for the Northern District of California, duly authorized to administer oaths, &c. &c., came Samuel Chase, a witness produced on behalf of the United States, in case No. 23, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in case No. 131 on the docket of the said Board of Commissioners, and was duly sworn and testified as follows:

Present; A. Glassell, Act'g U. S. District Attorney.

Samuel Chase being duly sworn, says:

Question by District Attorney.

What is your age and place of residence?

Answer. I am thirty-five years of age, and reside on Russian River, Mendicino County.

Question. When did you emigrate to California?

Answer. I came here in September, 1842.

Question. Where have you resided since that time?

Answer. In 42, 43, 44, 45, I resided in Santa Cruz; in 46, I was engaged in the bear flag, was in California in the spring of 47; I came from the lower county, and lived on Thomas O. Larkin's Ranch, in Sacramento Valley (the Upper Valley).

The Ranch was on the west side of Sacramento River, some ten or twelve miles above the town of Colusi; I went there and occupied the Ranch, under an agreement with John S. Williams, who was employed by Thomas O. Larkin.

Question. Did you, or not, build the house which Stirling occupied subsequently?

Answer. I did; I think the Ranch was principally above the house I have spoken of; Mr. Larkin required Williams and myself to corral the stock above the house on the river, which we did.

Question. How long did you reside in the house you have spoken of?

Answer. One year and one half.

Question. Did you know the Jimeno Rancho?

Answer. I did not.

Question. Did you know the land situated on the westerly bank of the Sacramento, lying between the house of Stirling and the first slough putting into the Sacramento River, on the westerly side thereof, above the mouth of the Rio de las Plumas, or Feather River, and for a space of three miles back from the river?

Answer. I know it well.

Question. Was any one living on that land when you went up there?

Answer. No white man; only Digger Indians. The first white man who lived on the westerly side of Sacramento River nearest to us was Knight, who lived at "Knight's Landing." There was no white man on the westerly bank of river below lived near to us than Knight's Landing.

Question. Do you know who was the first white man who settled thereon, after the year 1847?

Answer. A Spaniard by the name of Dolores moved there, and settled in 1848.

Question. What were the character of the improvements he made, if any?

Answer. He made some little improvements; put some poles in the ground and covered it with tulares, skins, &c.; felled some white oak trees and made him a corral.

SAM'L. CHASE.

Filed, April 11, 1855.

JOHN A. MONROE,
Clerk.

Petition for Review.

To the Honorable District Court of the United States, in and for the Northern District of California.

The UNITED STATES, Appellants,
v.
THOMAS O. LARKIN, and JOHN S. MISSROON, Claimants and Appellees.

The petition of the United States by their Attorney represents: That this cause is an application for a review of the decision of the Board of Commissioners, whereby the claim of the said appellees was confirmed, as appears by reference to the records of the case.

That a transcript of the said records was filed in the court on the 13th day of April, A. D. 1854; that a notice of appeal was filed on the twentieth day of September, A. D. 1854; and that the land claimed, lies in the said district. That the said claim is invalid.

Wherefore, appellants pray, that the said decision of the Board be reversed, and that this Court decree the said title to be invalid.

Respectfully, &c., A. G. LASSELL,
Assist. U. S. District Attorney.

Filed, June 25, 1855.

JOHN A. MONROE,
Clerk.
By W. H. CHEVERS,
Deputy.

District Court of the United States, in and for the Northern District of California.

Answer of Appellees and Claimants.

The UNITED STATES of AMERICA,
Appellants,
v.
THOMAS O. LARKIN and JOHN S. MISSROON,
Appellees and Claimants.

Rancho de Jimeno. An appeal by the U. S., from the Board of Land Commissioners.

In answer to the petition of the said appellants filed herein, the said claimants and appellees deny to be true the allegation made in said petition, that the said claim of the said claimants and appellees is invalid, and aver and represent that there—the said claimants and appellee's title to the said "Rancho de Jimeno," claimed in this case, is a good and valid one.

Wherefore, the said claimants and appellees pray that the decision herein of the Board of the United States Land Commissioners for ascertaining and settling Private Land Claims in the State of California be affirmed, and the title of said claimants and appellees be decreed to be valid, and that this Honorable Court confirm the same. And your petitioners will ever pray, &c.

A. C. WHITCOMB,
Counsel for Claimants and Appellees.

Filed June 25, 1855.

JOHN A. MONROE,
Clerk.
By W. H. CHEVERS,
Deputy.

Deposition, taken in open Court, of George Fisher.

THE UNITED STATES
v.
THO'S O. LARKIN et al.

No. 23; by order of the Court, testimony taken in open Court, before the Judges, on the 28th June, 1855.

Present: Hon. M. H. McAllister, Circuit Judge, and
Hon. Ogden Hoffman, Jr., Dist. Judge.

Geo. Fisher, being duly sworn on the part of the claimant in this case, deposes and says:

The document in the transcript of the proceedings before the Land Commission, marked "G," is a copy of a deed of conveyance purporting to be the original in the Board of Land Commissioners, which is in my charge, as Secretary of said Commission.

GEO. FISHER.

Sworn to in open Court, and subscribed before me, June 28, 1855.

JOHN A. MONROE,
Clerk.

By W. H. CHEVERS,
Deputy.

Cross-examination waived by the U. S. District Attorney.

Deposition of Talbot H. Green.

Talbot H. Green being duly sworn on the part of the claimants, deposes and says: I was in Monterey in the year 1847; I resided there from 1841 to 1848; in the year 1848 I knew Manuel Jimeno, Augustias Guerra, his wife, Walter Colton, William Edward Hartnell, A. Jackson McDuffie, William R. Garner. Witness is here shown a deed of conveyance, proved by Geo. Fisher to be the original, of which the document marked "G," in the transcript, is a copy. I saw those persons, whose names are subscribed to said document, as follows, Manuel Jimeno, and Augustias Guerra de Jimeno, his wife, sign their names, on the date which said document bears, to said document, and thereupon I signed my name as subscribing witness thereto.

The political troubles between Pio Pico and Governor Michel Torreno, commenced the latter part of 1844, and continued until March, 1845, when Mitchel Torreno left the country. The troubles between Pio Pico and José Castro, commenced in 1845, and continued up to the time it was settled that Pio Pico should be Governor, and Castro Commandante-General. The disturbance between Col. Fremont and José Castro, commenced a few weeks after February,

1846. Those troubles continued until the latter part of 1847, or the first part of 1848. Manuel Jimeno was Secretary of the Government up to the time that Michel Torreno left the country. From the time the political troubles commenced in this country up to the time of the Treaty of Peace, it was not safe for a man to go up into the Sacramento Valley, or to send cattle there, on account of the Indians, unless to be near to Col. Sutters. I was acquainted with Dolores Feliz and John Armstrong, in 1847. In the latter part of 1847, Larkin and Missroon employed them to go up and take possession of the Rancho in this case, and I furnished them with all the things necessary for so doing, cattle, &c. In 1849, Mr. Larkin sent an agent up to dispose of a part of the stock on said Ranch; and soon after, a man named John William, purchased a part of this stock of Mr. Larkin; and on account of such purchase, deposited with me the sum of $5,000. John Williams took charge of Mr. Larkin's interest up there. He is now dead; he died in the early part of 1850. He was succeeded by Mr. Stirling, who, I am informed, is now dead; I do not know that Mr. Larkin ever went upon the land in question; I have been in the Sacramento Valley twice, between the years 1846 and the latter part of 1848; I do not recollect that Mr. Larkin ever told me he had been on this land; I do not know that he ever cultivated any portion of the land; but I know of his having sent men on it for that purpose; I do not know that they ever cultivated any portion of this; they remained until after the discovery of gold; they went there in May, 1847; gold was discovered in May, 1848. The condition of the country during this time was considered unsettled; but not so much so as in 1846; the Indians having somewhat removed into the mountains.

TALBOT H. GREEN.

Sworn to in open Court, this 28th day of June, 1855, before me.

JOHN A. MONROE,
Clerk.

By W. H. CHEVERS,
Deputy.

Dist. Att'y waived cross-examination.

Deposition of Wm. H. McKee.

William H. McKee, being duly sworn on the part of the claimants, deposes and says: I know John Armstrong in 1847; Dolores Feliz I did not know until 1848; in the month of May, of that year, I saw him on the tract in question; I saw them both there at that time; they were in charge of Mr. Larkin's cattle.

WM. H. McKEE.

Sworn before me, in open Court, this 28th June, 1855.

JOHN A. MONROE,
Clerk.

By W. H. CHEVERS,
Deputy.

Dist. Att'y waived cross-examination.
Filed June 28th, 1855.

JOHN A. MONROE,
Cl'k.

By W. H. CHEVERS,
Deputy.

Opinion of the Court, delivered by his Honor, Ogden Hoffman, Jr., U. S. Dist. Judge.

THOMAS O. LARKIN &
JOHN S. MISSROON
ads.
THE UNITED STATES.

In this case the claim of the appellees was confirmed by the Board of Commissioners.

An appeal from that decision was taken to this Court. But the case has been submitted by the District Attorney without the statement of any objection to the validity of the claim on the part of the U. S.

The original grant by Governor Micheltorreno to Manuel Jimeno bears date November, 1844. The conveyance to the present claimants is dated August 30, 1847. The grant is fully proved; nor is its genuineness called in question. The grant appears to have been submitted to the Departamental Assembly, and referred to a committee on vacant lands, June 3, 1846, but no further action on it is shown to be had. The expediente, however, was returned to and was found among the government archives. Had the action of the Assembly been unfavorable, the governor should have transmitted it to the Supreme Government for its resolution (Reg'ns of 1828, sec. 6). The fact, therefore, that the expediente was not so transmitted, but was returned like other approved grants to the archives, renders it highly probable that the approval of the Assembly was actually obtained. The absence, however, of that approval has been held by the Supreme Court to be no obstacle to the confirmation of the claim; and it is necessary, therefore, to determine whether the evidence in this case is sufficient to raise the presumption that the Assembly actually approved the grant.

The land claimed by the appellees is described in the original grant as, "the tract of land which is unoccupied between the Rancho which has been granted to the children of Don Thomas O. Larkin the River Sacramento, and the uncultivated lands which are on the side of the south, entirely in conformity with the showing in the corresponding plan."

On reference to the plan or map found in the expediente we find the boundaries of the tract granted laid down with considerable precision. The first or northern boundary is the Rancho granted to the children of Thomas O. Larkin. The eastern boundary is the Sacramento River; the southern is a large Estro (marked on the map "lindero" or boundary), running into the Sacramento about 2 leagues above, as appears by the scale upon the deseno, the mouth of Feather River. Nothing appears on the map to indicate the locality of the western boundary. That boundary is evidently an imaginary line running parallel with the Sacramento, and so far distant therefrom, in a westerly direction, as to embrace within the tract the quantity granted. There is no difficulty, therefore, in ascertaining the locality of the land granted, nor has any objection of that kind been raised.

There is no evidence that the grantee took possession of his land. The grant, however, does not contain the usual condition of cultivation and habitation within a year. The omission of this condition may possibly have been owing to the fact that the grantee was already in possession of the land.

It appears, however, from the evidence, that from the latter part of 1844 until the end of 1847 it was unsafe to go into the Sacramento Valley, unless in the vicinity of Capt. Sutter's fort. From 1844, the time of the grant, until its final occupation by the American forces, the country was distracted by the wars between Michel Torreno and Pio Pico, and between the latter and Castro. It is well known that during this state of things the uncivilized Indians became more turbulent, and were dangerous to the frontier settlements which were not strong enough to resist them. In 1847, the Rancho was taken possession of, and extensively stocked by the present claimants, and this seems to have been the earliest moment when the settlement could have been effected.

The circumstances in this case are almost identical with those in the case of Fremont; and under the authority of that case the excuses for the non-fulfilment of the conditions must be deemed sufficient. There is nothing in the case from which an abandonment of the grant can be inferred.

We think, therefore, that the decision of the Board should be affirmed, and the claim of the appellants be deemed to be valid.

Decree of Confirmation.

THE UNITED STATES
v.
THOMAS O. LARKIN and
JOHN S. MISROON.

Decree. Stated term, July 5th, 1855.

Appeal from the final decision of the Commissioners to ascertain and settle Private Land Claims in California.

This case came on to be heard at the above stated term, on appeal by the United States from the final decision of the Board of United States Land Commissioners to ascertain and settle the Private Land Claims in the State of California, under the Act of Congress of March third, 1851, upon the transcript of the proceedings, decision, and the papers and evidence on which said decision was founded, and upon the further testimony taken in this Court by order of the Court; and counsel for both parties having appeared in Court,

It is hereby ordered, adjudged, and decreed, that the decision and decree of the said Board of United States Land Commissioners to ascertain, and settle the Private Land Claims in the State of California, made in this case, be affirmed, and that the claim of the said Thomas O. Larkin and John S. Missroon, appellees and claimants herein, be, and the same is hereby confirmed, to the extent and quantity of eleven square leagues, or sitios de ganado mayor, of land, and for no more, being the same land described in the grant and map referred to therein, and of which the possession was proved to have been long enjoyed; provided that the said quantity to the original grantee, Manuel Jimeno, granted, and now to the said claimants, James O. Larkin and John S. Missroon, confirmed, be contained within the boundaries called for in said grant and map to which the grant refers, and if there be less than eleven square leagues, or sitios de ganado mayor, of land within the said boundaries, then there is confirmed to them the said less quantity, it being apparent to the Court, that there is more than two hundred varas square, the minimum allowed to be granted by the regulations of the Mexican Congress of 1828, concerning colonization.

(Signed) M. HALL M'CALLISTER,
Circuit Court.

(Signed) OGDEN HOFFMAN, JR.,
U. S. District Judge.

Filed in office, July 5th, 1855.

JNO. A. MONROE,
Clerk.

Order granting appeal, &c.

At a stated term of the District Court of the United States of America, for the Northern District of California, held at the Court House, in the City of San Francisco, on Thursday, the fifth day of July, in the year of our Lord one thousand eight hundred and fifty-five,

Present: Hon. M. H. M'Allister, Circuit Judge. The Honorable Ogden Hoffman, Jr., District Judge.

THE UNITED STATES
v.
THOMAS O. LARKIN and
JOHN S. MISSROON. } No. 23.

In this case, on the application of the U. S. Attorney, made in open Court, it is ordered by the Court, that an appeal in behalf of the United States from the final decision of this Court, rendered in said cause at the present term, be, and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause, be sent to the Supreme Court of the United States without delay.

Filed July 5th, 1855.

JOHN A. MONROE,
Clerk.
By W. H. CHEVERS,
Deputy.

Clerk's Certificate.

United States of America, Northern District of California.

I, John A. Monroe, Clerk of the United States District Court for the said district, do hereby certify, that the annexed pages, from one to thirty-five, inclusive, contain a full, true, and correct transcript, in accordance with the order of the Court, of the record on file from the Board of Land Commissioners, together with the pleadings, de-